IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Santosh Parihar. Versus State of Rajasthan.

S.B. Criminal Misc. Petition No. 320/2005
against the order dated 17-2-2005 passed
by the Chief Judicial Magistrate, Jalore, in
Criminal Case No. 221/2003.

...

Date of Order: November 28, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. D.C. Sharma, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 17-2-2005 passed by the Chief Judicial Magistrate, Jalore (for short, "the trial Court" hereinafter) in Criminal Case No.221/2003, whereby the trial Court summoned the petitioner by a non-bailable warrant in pursuance of its order taking cognizance dated 11-7-2003.

I have heard learned counsel for the parties. Carefully gone through the order impugned dated 17-2-2005 as also the order dated 11-7-2003 passed by the trial Court.

It is contended by the learned counsel for the

petitioner that by the order dated 11-7-2003 passed by the trial Court in F.R. No. 60/2002 arising out of FIR No. 163/2000, Police Station, Jalore, the trial Court took cognizance of the offence under Section 420 read with Section 120-B, IPC against co-accused Ravi Bajara S/o Tara Chand and the present petitioner. The order taking cognizance came to be challenged by Ravi Bajara before this Court by way of filing S.B. Criminal Revision No. 813/2003 and vide order dated 20-2-2004, the criminal revision filed by co-accused Ravi Bajara was allowed and the order dated 11-7-2003 passed by the trial Court taking cognizance of the offence under Section 420 read with Section 120-B, IPC was set aside.

Learned counsel for the petitioner submits that the case of the petitioner and co-accused Ravi Bajara is on similar footing and not distinguishable and, therefore, the petitioner seeks setting aside the order taking cognizance of the offence.

On careful perusal of the material available on record, in my view, the case of the present petitioner and co-accused Ravi Bajara is on identical facts and not distinguishable and, therefore, the present miscellaneous petition filed by the petitioner also deserves to be allowed in the light of the order dated 20-2-2004 passed by S.B. Criminal Revision No. 813/2003, Ravi Bajara Vs. State of Rajasthan.

For the reasons mentioned in the order dated

20.2.2004 passed by this Court in S.B. Criminal Revision No. 813/2003, the instant criminal miscellaneous petition is allowed. The order taking cognizance dated 11-7-2003 and the order dated 17-2-2005 summoning the petitioner by non-bailable warrant passed by the Chief Judicial Magistrate, Jalore in Criminal Case No. 221/2003 are set aside. The stay petition stands disposed of.

(H.R. PANWAR), J.

mcs